

REMARKS

OVERVIEW

Claims 1-18 are pending in the present application.

ISSUES UNDER 35 U.S.C. § 103

Claims 1, 2, 5, 6, 8-13, 16 and 18 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,347,797 to Seal. Applicant respectfully traverses this rejection.

Independent claim 1 requires an auxiliary saddle stirrup "positioned behind and below the primary stirrup". Independent claim 8 requires a saddle with "an auxiliary stirrup hanging downwardly from the seat behind and below the primary stirrup". Claim 18 requires a first stirrup "behind and below the second stirrup" which permits a rider mounting the saddle "without crossing the rider's legs". These limitations in the independent claims are not disclosed in the Seal patent.

The auxiliary or second stirrup 5 of Seal is in front of the primary stirrup, as seen in Figure 6. With the rider's right foot in the front stirrup 5 of seal, the rider must cross his/her legs in order to place their left foot in the rear primary stirrup. Thus, Seal fails to meet these limitations of independent claims 1, 8 and 18, which the Examiner acknowledges. The Examiner asserts that it would have been an obvious substitution of functional equivalent to place the mounting stirrup of Seal rearwardly remote or behind the primary stirrup. This is an improper basis for an obviousness rejection. The Examiner has cited no other references to overcome the deficiencies of Seal.

An obviousness analysis always begins with *Graham v. John Deere*, 383 U.S. 1, 17 (1966) which requires three factual determinations in evaluating whether a claimed invention is obvious over the prior art:

- 1) the scope and content of the prior art;
- 2) the differences between the prior art and the claims at issue;
- 3) the level of ordinary skill in the pertinent art.

In addition to these factors, *Graham* indicates that where other objective evidence of non-obviousness is present, it must also be considered.

Applying the *Graham* factors, the Applicant's invention is not obvious in view of the Seal patent. The scope and content of the Seal patent merely speaks of structure at the forward end of the saddle and makes no mention of placement of a mounting stirrup elsewhere on the saddle. The Examiner properly noted this key difference and states on page 2, section 2, the "797 (the Seal patent) is silent about, the upper end being attachable to the saddle at a location rearwardly remote from a primary stirrup on the saddle and the foot loop being positioned behind and below the primary stirrup when the strap hangs down from the saddle." This key structural difference is summarily dismissed by the Examiner as being "a functional equivalent". Furthermore, in the Remarks section, the Examiner states that the Seal patent does not require a rider to cross his/her legs when mounting a horse. Moreover, the Examiner asserts that the rearwardly mounted strap has no critical reason that would be better than mounting the strap in front as taught by the Seal patent (page 6, paragraph 5). The Examiner's conclusions and assertions are simply incorrect.

The Applicant respectfully requests the Examiner to re-evaluate the auxiliary stirrup or step of the present invention in relation to the Seal. As seen in the illustration of the Seal patent stirrups in Figures 6, 7 and 8, the rider must step into the frontward auxiliary stirrups with the

right foot. Then, in an intermediate step between Figures 6 and 7, the user necessarily MUST cross his left foot in front of the right in order to place the left foot into the rear primary stirrup to complete the mounting process. This results in the user searching for the primary stirrup blinded as to the left foot position. This is clearly seen as the Seal patent shows the user's head over the saddle and in no position to make visual contact when placing his left foot into the upper primary stirrup.

In sharp distinct contrast, the auxiliary stirrup of the present invention prevents the precarious cross-legged position of the Seal patent by maintaining uncrossed legs. The low, rearward location of the auxiliary stirrup of the present invention allows the rider to easily mount the horse without crossing the right and left leg. In this position, the user reacts effectively to critical events such as the horse walking or running off prematurely (which happens commonly). The rearward placement of the auxiliary stirrup of the present invention allows mounting of a horse without having to cross the rider's legs, as is apparent from "Figure 3, making the process safer because if the rider had crossed legs (as in Seal) when the horse walks or runs off, serious consequences may result as the rider seeks to regain balance and to avoid a fall.

In summary, the low, rearward placement of the auxiliary stirrup on the present invention is structurally different and functions differently than the Seal saddle and stirrups.

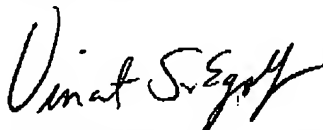
The Applicant respectfully submits that the rejections to independent claims 1, 8 and 18 should be withdrawn. As claims 2-6 depend from claim 1, rejections to these claims should be withdrawn as well. As claims 9-16 depend from claim 8, these rejections should also be withdrawn.

CONCLUSION

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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